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Attorneys for Plaintiffs,

D.B. and D.C.B, by and through their Guardian ad Litem,

TERRI THOMAS, individually and as Successors in Interest to
the ESTATE of DARREN BURLEY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

D.B. and D.C.B., by and through
their Guardian Ad Litem, TERRI
THOMAS, and as Successors in
Interest to the ESTATE of
DARREN BURLEY,

Plaintiffs,

vs.

THE COUNTY OF LOS
ANGELES; DEPUTY DAVID
AVILES and DOES 1-10, Inclusive,

Defendants.

CASE NO.: 2:22-cv-04207-PA-JPR

**FIRST AMENDED COMPLAINT
FOR DAMAGES**

- 1. Excessive Force - 42 U.S.C. § 1983**
- 2. Substantive Due Process - 42 U.S.C. § 1983**
- 3. Interference with Familial Relationship and Freedom of Association - 42 U.S.C. § 1983**
- 4. Municipal Liability for Unconstitutional Custom or Policy - 42 U.S.C. § 1983**

JURY TRIAL DEMAND

1 D.B. and D.C.B., minors, by and through their Guardian Ad Litem, Terri
2 Thomas, individually and as Successors in Interest to the ESTATE of DARREN
3 BURLEY allege as follows:

4 **INTRODUCTION**

5
6 1. This civil rights action seeks compensatory and punitive damages
7 from Defendants for violating various rights under the United States Constitution
8 in connection with the deadly beating of the DECEDENT, Darren Burley.

9 **PARTIES**

10
11 2. At all relevant times herein, Darren Burley (hereinafter referred to as
12 “DECEDENT” or “MR. BURLEY”) was an individual residing in the County of
13 Los Angeles, California. He was an African American male who was born on June
14 9, 1982. He died on August 15, 2021, twelve (12) days after he was attacked by the
15 Defendants as described below.

16 3. At all relevant times mentioned in this Complaint, Plaintiffs D.B. and
17 D.C.B. were residents of DeKalb County, Georgia. Plaintiffs are the natural minor
18 sons of the decedent DARREN BURLEY (referred to as “DARREN” or “Mr.
19 BURLEY”). D.B. was born on January 23, 2008, and D.C.B. was born on June 1,
20 2010. At all relevant times mentioned here, TERRI THOMAS (“TERRI” or “Mrs.
21 THOMAS”) was a resident of DeKalb County, Georgia and the duly appointed
22 Guardian Ad Litem for minor Plaintiffs.

23 4. At all relevant times herein, Defendant THE COUNTY OF LOS
24 ANGELES (referred to as “County”) is an incorporated public entity duly
25 authorized and existing as such in and under the laws of the State of California;
26 and at all times herein mentioned, Defendant COUNTY has possessed the power
27 and authority to adopt policies and prescribe rules, regulations and practices
28

1 affecting the operation of the Los Angeles Sheriff's Department and its tactics,
2 methods, practices, customs, and usage. At all relevant times, Defendant COUNTY
3 was the employer of DOES Defendants, individually and as peace officers.

4 5. Plaintiffs are informed, believe, and allege that Defendant DAVID
5 AVILES ("AVILES") is a Deputy Sheriff employed by Los Angeles County and
6 the Los Angeles County Sheriff's Department ("LASD"). At all times during the
7 Incident, Defendant AVILES was acting under color of law and within the course
8 and scope of his employment with the COUNTY.

9 6. At all relevant times, DOES Defendants, individually and as a peace
10 officer; were duly authorized employees and agents of the COUNTY, who were
11 acting under the color of law within the course and scope of their respective duties
12 as police officers and within the complete authority and ratification of their
13 principal, Defendant COUNTY.

14 7. At all relevant times, Defendants individually and as peace officers;
15 were duly appointed officers and/or employees or agents of the COUNTY, subject
16 to oversight and supervision by the COUNTY's elected and non-elected officials.

17 8. In doing the acts and failing and omitting to act as hereinafter
18 described, Defendants, individually and as peace officers; were acting on the
19 implied and actual permission and consent of the COUNTY.

20 9. At all times mentioned herein, each and every COUNTY defendant
21 was the agent of each and every other COUNTY defendant and had the legal duty
22 to oversee and supervise the hiring, conduct, and employment of each and every
23 COUNTY defendant.

24 10. At all relevant times, Defendants, individually and as peace officers;
25 were working for Defendant COUNTY as police officers.
26
27
28

JURISDICTION

13. Venue is proper in this Court under 28 U.S.C. § 1391(b) and (c), because Defendants reside in, and all incidents, events, and occurrences giving rise to this action occurred in, the County of Los Angeles, California.

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2 **FACTS COMMON TO ALL CAUSES OF ACTION**

3 14. Plaintiffs repeat and restate each and every allegation in paragraphs 1
4 through 13 of this Complaint with the same force and effect as if fully set forth
5 herein.

6 15. During the evening hours on or about August 3, 2012, at or near the
7 1300 block of East Glencoe Street, Compton, California, 90211, Mr. BURLEY
8 was walking down the street when he was stopped by several unknown members
9 of the Los Angeles County Sheriff's Department. After being stopped, the deputies
10 threatened to hit, taser, and strike Mr. BURLEY with impact weapons, and did in
11 fact, hit, taser, and strike Mr. BURLEY with impact weapons about his head and
12 body.

13 16. As Mr. BURLEY was on the ground, Defendant AVILES tried "to
14 pin" his upper body to the ground by mounting him and pressing one knee into the
15 center of his back, at the top of his diaphragm, and another knee down on the back
16 of his head, near the back of his neck. Defendant AVILES, who weighed 200
17 pounds, used as much body weight as he was able to apply. Mr. BURLEY
18 struggles, trying to raise his chest from the ground. According to a witness,
19 Defendant AVILES held Mr. BURLEY in "some type of head-lock" during most
20 of the struggle and was "choking" him.¹

21
22 17. Even though restrained, Mr. BURLEY was still flinging and twisting
23 his upper body, so Defendant AVILS remained on Mr. BURLEY's back, using his
24 "upper body weight" to push down on Mr. BURLEY and "keep him in place."
25
26

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28 ¹ The allegations in paragraphs 16-18 are taken from the California Supreme
Court's opinion in *B.B. v County of Los Angeles*, 10 Cal.5th 1, 6. (2020)

1 18. Defendant AVILES then pinned Mr. BURLEY to the ground while
2 other deputies beat him with a flashlight and tasered him repeatedly. Defendant
3 AVILES pressed his knees on Mr. BURLEY's neck and back with the full weight
4 of his 200 pound body. A witness saw Mr. BURLEY gasping for air. When Mr.
5 BURLEY lost consciousness, none of the deputies rendered aid. Mr. BURLEY
6 never regained consciousness and died 10 days later.

7 19. Mr. BURLEY did nothing to justify this use of deadly force against
8 him. He had not posed any reasonable threat of imminent death or serious bodily
9 injury to any of the involved COUNTY deputies, or any other person, so as to
10 justify this use of serious and deadly force against him. Plaintiffs are informed and
11 believe that Mr. BURLEY's race, color, and ancestry were each a substantial factor
12 leading to the Defendant Aviles' use of excessive force. None of the deputy
13 Defendants who battered, tasered, and struck Mr. BURLEY are African American.
14 Consequently, in choosing to exercise severe and malicious force against him, each
15 of the Defendants discriminated against him on account of his race.
16

17 20. Both prior to and during the time in which DECEDENT was killed by
18 the Defendants, DECEDENT made no aggressive movements, no furtive gestures,
19 and no physical movements which would suggest to a reasonable deputy that the
20 DECEDENT had the will, or the ability to inflict substantial bodily harm against
21 any individual or deputy.

22 21. Plaintiffs are informed and believe that at all relevant times Defendant
23 Aviles was a member, or an associate, of the Executioners and/or 3000 Boys. The
24 Executioners are a Compton Sheriff Deputy gang who are known to control the
25 conduct of the Compton Station of the LASD and to condone and encourage the
26 use of excessive force, particularly against African Americans. The 3000 Boys are
27 also a Sheriff Deputy gang representing members who patrolled the 3000 floor of
28

1 the Twin Towers jail. Plaintiffs further believe that the Executioners and the 3000
 2 Boys are composed of only Latino and/or Hispanic members. There are no women
 3 or African American members of the Executioners or 3000 Boys. These gang
 4 members routinely racially profile, harass, discriminate, and use excessive force
 5 (and deadly force) against African American members of the community. Mr.
 6 Burley was one of those community members. At all times mentioned in this
 7 complaint, Defendant COUNTY was aware that Defendant AVILES was a
 8 member of a Deputy Sheriff gang and have protected, defended and denied his
 9 involvement yet instead the LASD condoned such gangs.

10 22. Plaintiffs are informed and believe that MR. BURLEY did not die
 11 immediately after being subjected to excessive force by the Defendant Aviles. MR.
 12 BURLEY was in a coma for some time before his death. Plaintiffs are informed
 13 and believe that both before and during the period he was in a coma, MR.
 14 BURLEY suffered greatly. As a result of this suffering, MR. BURLEY's estate, by
 15 his successors in interest, seeks damages for his pain and suffering prior to his
 16 death. These damages were not available in his previous lawsuit in Los Angeles
 17 County Superior Court. However, the Ninth Circuit has recognized that such
 18 damages are available under Section 1983 pursuant to *Chaudry v. City of Los*
 19 *Angeles*, 751 F.3d 1096 (2014).
 20

21 23. A lawsuit was filed in Los Angeles County Superior Court by the
 22 Plaintiffs on or about April 15, 2013 asserting claims under California law.

23 24. On December 31, 2014, a jury by a vote of 9-3, found Defendant
 24 AVILES liable for Battery by a Peace Officer and awarded Plaintiffs damages for
 25 wrongful death under California law.² However, numerous issues were not
 26

27 ² The full judgment against Defendants Aviles and the County of Los
 28 Angeles for battery was fully affirmed by a unanimous California Supreme

1 litigated in the state court lawsuit including, without limitation: 1.) the amount of
 2 damages to be awarded for DECEDENT's pain and suffering under Section 1983;
 3 2.) the *Monell* liability based on the L.A County Sheriff's Department official
 4 customs, policies and/or practices condoning the use of excessive force by LASD
 5 deputies as well as condoning the existence of racist gangs of deputies such as the
 6 Executioners, as discussed in more detail later in this First Amended Complaint,
 7 3) the emotional distress and other damages resulting from the denial of Plaintiffs'
 8 federal constitutional rights to the association of the father, DECEDENT Darren
 9 Burley. The damages awarded in the prior lawsuit were solely for wrongful death
 10 under California law, and therefore did not include damages under Section 1983,
 11 including survivorship damages for Mr. Burley's pain and suffering and other
 12 damages available under federal law.

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 21 _____
 22 Court. *See B.B. v County of Los Angeles*, 10 Cal.5th 1 (2020). In his
 23 concurring opinion in this case, Associate Supreme Court Justice Liu stated:
 24 "Darren Burley was Black. By happenstance, we heard oral argument in this
 25 case one week after another Black man, George Floyd, was killed by a
 26 Minneapolis police officer who pressed his knee into Floyd's neck with the
 27 full weight of his body for 8 minutes and 46 seconds – an incident that
 28 galvanized protests in every state across the country and throughout the
 world. In all likelihood, the only reason Darren Burley is not a household
 name is that his killing was not caught on videotape as Floyd's was." *See*
B.B. v County of Los Angeles, 10 Cal.5th at 30.

FIRST CAUSE OF ACTION

Excessive Force 42 U.S.C. § 1983

**(Plaintiffs D.B. and D.C.B. as successors in interest of THE ESTATE OF
DARREN BURLEY
against Defendant Aviles)**

25. Plaintiffs repeat and restate each and every allegation in paragraphs 1 through 24 of this Complaint with the same force and effect as if fully set forth herein.

26. The unreasonable use of force by Defendant AVILES, individually and as a peace officer, deprived the DECEDENT of his right to be secure in his person against unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth Amendment of the United States Constitution and applied to state actors by the Fourteenth Amendment.

27. As a result, DECEDENT suffered extreme pain and suffering and eventually suffered a loss of life and of earning capacity for which THE ESTATE OF DARREN BURLEY is entitled to recover damages. Plaintiffs have also been deprived of their life-long love, companionship, comfort, support, society, care, and sustenance of DECEDENT, and will continue to be so deprived for the remainder of their natural lives. Plaintiffs are also claiming funeral and burial expenses, loss of gifts and benefits and loss of financial support.

28. As a result of the conduct of Defendant Aviles, individually and as a peace officer, he is liable for DECEDENT's injuries, because he was an integral participant in the excessive force.

29. This use of deadly force was excessive and unreasonable under the circumstances, especially since DECEDENT had done nothing violent before, during and after he was battered.

1 30. The conduct of Defendant Aviles, individually and as a peace officer,
2 was willful, wanton, malicious, and done with reckless disregard for the rights and
3 safety of DECEDENT and therefore warrants the imposition of exemplary and
4 punitive damages as to Defendant Aviles.

5 31. Plaintiffs seek damages as successors-in-interest to DECEDENT.

6 32. Plaintiffs also seek attorney fees under this claim pursuant to 42
7 U.S.C. § 1988.
8

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10 **SECOND CAUSE OF ACTION**

11 **Substantive Due Process - 42 U.S.C. § 1983**

12 **(Plaintiffs, ESTATE and Minors against Defendant AVILES and**
13 **DOES 1-10, inclusive)**

14 33. Plaintiffs repeat and restate each and every allegation in paragraphs 1
15 through 32 of this Complaint with the same force and effect as if fully set forth
16 herein.

17 34. Plaintiffs have a cognizable interest under the Due Process Clause of
18 the Fourteenth Amendment of the United States Constitution to be free from state
19 actions that deprive them from life, liberty, or property in such a manner as to
20 shock the conscious, including but not limited to, unwarranted state interference in
21 Plaintiffs' familial relationship with DECEDENT.

22 35. DECEDENT had a cognizable interest under the Due Process Clause
23 of the Fourteenth Amendment of the United States Constitution to be free from
24 state actions that deprive them from life, liberty, or property in such a manner as to
25 shock the conscious.
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1 36. As a result of the beating by Defendant AVILES, individually and as
2 a peace officer, DECEDENT died. Minor Plaintiffs were thereby deprived of their
3 constitutional right of familial relationship with DECEDENT.

4 37. Defendant AVILES, individually and as a peace officer, acting under
5 the color of state law, thus violated the Fourteenth Amendment of minor Plaintiffs
6 to be free from unwarranted interference with their familial relationship with
7 DECEDENT.

8 38. The aforementioned actions of Defendant AVILES, individually and
9 as a peace officer, along with other undiscovered conduct, shocks the conscious, in
10 that he acted with deliberate indifference to the constitutional rights of
11 DECEDENT and minor Plaintiffs, with purpose to harm, unrelated to any
12 legitimate law enforcement objective.

13 39. As a direct and proximate cause of the acts of the Defendants,
14 individually and as peace officers, DECEDENT experienced severe pain and
15 suffering and lost his life and earning capacity for which THE ESTATE OF
16 DARREN BURLEY is entitled to recover damages. Minor Plaintiffs have also
17 been deprived of their life-long love, companionship, comfort, support, society,
18 care, and sustenance of DECEDENT, and will continue to be so deprived for the
19 remainder of their natural lives. Minor Plaintiffs are also claiming funeral and
20 burial expenses, loss of gifts and benefits and a loss of financial support.

21 40. The conduct of Defendant AVILES, individually and as a peace
22 officer, was willful, wanton, malicious, and done with reckless disregard for the
23 rights and safety of DECEDENT and therefore warrants the imposition of
24 exemplary and punitive damages as to Defendant AVILES.

25 41. Plaintiffs seek punitive damages.
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1 42. Plaintiffs also seek attorney fees under this claim pursuant to 42
2 U.S.C. § 1988.

3 4 **THIRD CAUSE OF ACTION**

5 **Interference with Familial Relationship and Freedom of Association –**

6 **42 U.S.C. § 1983**

7 **(Plaintiffs THE ESTATE OF DARREN BURLEY, Minor Plaintiffs**
8 **against Defendants DOES 1-10, inclusive)**

9 43. Plaintiffs repeat and restate each and every allegation in paragraphs 1
10 through 42 of this Complaint with the same force and effect as if fully set forth
11 herein.

12 44. Plaintiffs had a cognizable interest under the Due Process Clause of
13 the Fourteenth Amendment of the United States Constitution to be free from state
14 actions that deprive them of life, liberty, or property in such a manner as to shock
15 the conscience, including but not limited to, unwarranted state interference in their
16 familial relationship with their father, DECEDENT.

17 45. As a result of the excessive force by Defendant AVILES, individually
18 and as a peace officer, DECEDENT died. Plaintiffs were thereby deprived of their
19 constitutional right and familial relationship with DECEDENT.

20 46. Defendant AVILES, individually and as a peace officer, acting under
21 the color of state law, thus violated the First and Fourteenth Amendment rights of
22 Plaintiffs to be free from unwarranted interference with their familial relationship
23 with DECEDENT.

24 47. The aforementioned actions of Defendant AVILES, individually and
25 as a peace officer, along with other undiscovered conduct, shocks the conscience,
26 in that he acted with deliberate indifference to the constitutional rights of
27
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1 DECEDENT and minor Plaintiffs, with purpose to harm, unrelated to any
2 legitimate law enforcement objective.

3 48. As a direct and proximate cause of the acts of Defendant AVILES,
4 individually and as a peace officer, Plaintiffs have also been deprived of the life-
5 long comfort, support, society, care, and sustenance of DECEDENT, and will
6 continue to be so deprived for the remainder of their natural lives. Plaintiffs are
7 also claiming funeral and burial expenses, loss of gifts and benefits and a loss of
8 financial support.

9 49. The conduct of Defendant AVILES, individually and as a peace
10 officer, was malicious, oppressive, and in reckless disregard for the rights and
11 safety of DECEDENT and Plaintiffs, and therefore warrants the imposition of
12 exemplary and punitive damages as to Defendants.

13 50. Decedent's successors-in-interest seek wrongful death damages under
14 this claim.
15

16 **FOURTH CAUSE OF ACTION**

17 **Municipal Liability for Unconstitutional Custom or Policy - 42 U.S.C. § 1983**

18 **(Plaintiffs THE ESTATE OF DARREN BURLEY against Defendants**

19 **COUNTY OF LOS ANGELES and DOES Defendants)**

20 51. Plaintiffs repeat and restate each and every allegation in paragraphs 1
21 through 50 of this Complaint with the same force and effect as if fully set forth
22 herein.
23

24 52. On information and belief Defendant AVILES' conduct, individually
25 and as a peace officer, who killed DECEDENT, was ratified by COUNTY's
26 sheriff's department supervisorial deputies.
27
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1 53. On information and belief, Defendant AVILES was not disciplined for
2 killing DECEDENT, who did not pose a risk to Defendant.

3 54. On and for some time prior to August 3, 2012, (and continuing to the
4 present day) Defendant AVILES, individually and as a peace officer, deprived
5 Plaintiffs and DECEDENT of their rights and liberties secured to them by the First,
6 Fourth and Fourteenth Amendment to the United States Constitution, in that said
7 defendants and their supervising and managerial employees, agents, and
8 representatives, acting with gross negligence and with reckless and deliberate
9 indifference to the rights and liberties of the public in general, and of Plaintiffs and
10 DECEDENT, and of persons in their class, situation and comparable position in
11 particular, knowingly maintained, enforced and applied an official recognized
12 custom, policy, and practice of:

- 13 a. Failing to train officers how to engage in a foot pursuit without
14 the use of deadly force where the circumstances do not risk
15 death or great bodily injury of the officer or other individual.
16 At all times stated in this complaint, Mr. BURLEY was
17 unarmed.
- 18 b. Employing and retaining as sheriff deputies and other
19 personnel, including Defendant AVILES, individually and as a
20 peace officer; who at all times material herein knew or
21 reasonably should have known had dangerous propensities for
22 abusing their authority and for mistreating citizens by failing to
23 follow written COUNTY Police Department policies, including
24 the use of excessive and deadly force;
- 25 c. Of inadequately supervising, training, controlling, assigning,
26 and disciplining Defendant AVILES, who the COUNTY knew
27
28

1 or in the exercise of reasonable care should have known had the
2 aforementioned propensity and character trait, including the
3 propensity for violence and the use of excessive force;

- 4 d. By maintaining grossly inadequate procedures for reporting,
5 supervising, investigating, reviewing, disciplining, and
6 controlling the intentional misconduct by Defendant AVILES
7 who is a sheriff deputy of the COUNTY;
- 8 e. By failing to discipline Defendant AVILES' conduct, including
9 but not limited to, unlawful detention and excessive and deadly
10 force and his membership and association with violent LASD
11 gangs;
- 12 f. By defending and ratifying the intentional misconduct of
13 Defendant Aviles and other Deputies who are Sheriff Deputies
14 of the COUNTY;
- 15 g. By having and maintaining an unconstitutional policy, custom
16 and practice of detaining and arresting individuals without
17 probable cause or reasonable suspicion, and using excessive
18 force, including deadly force, which also is demonstrated by
19 inadequate training regarding these subjects. The policies,
20 customs and practices of Defendant was done with a deliberate
21 indifference to individuals' safety and rights; and
- 22 h. By failing to properly investigate claims of unlawful detention
23 and excessive force by Defendant AVILES.
- 24 i. By failing to discipline, investigate or eliminate Deputy gangs
25 and gang members (including Defendant AVILES) within the
26 Department - including the Executioners and 3000 Boys.
27
28

1 j. By failing to disband Deputy gangs such as the Executioners
2 and 3000 Boys. At all times mentioned in this complaint, the
3 COUNTY knew or should have known that Defendant AVILES
4 was the member or an associate of a Deputy gang. They failed
5 to prevent Defendant AVILES' involvement in such illegal
6 gang activity.

7 k. The LASD has known of and condoned the existence of violent
8 and racist gangs of deputies such as the Executioners and is
9 currently under investigation by the California Attorney
10 General's office as a result of its allowing, condoning and
11 fostering deputy gangs.

12 55. Defendant AVILES, individually and as a peace officer, together with
13 various other officials, whether named or unnamed, had either actual or
14 constructive knowledge of the deficient policies, practices, and customs alleged in
15 the paragraphs above. Despite having knowledge as stated above the Defendant
16 County of Los Angeles, condoned, tolerated and through actions and inactions
17 thereby ratified such policies. The LASD has acted with deliberate indifference to
18 the foreseeable effects and consequences of these policies with respect to the
19 constitutional rights of DECEDENT, Plaintiffs, and other individuals similarly
20 situated.
21

22 56. The LASD's unconstitutional policies practices, and customs
23 described herein were affirmatively linked to and were a moving force behind the
24 injuries of DECEDENT and Plaintiffs and the violation of Plaintiffs' constitutional
25 rights.
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1 57. By reason of the aforementioned acts and omissions of Defendants,
2 individually and as peace officers, Plaintiffs were caused to incur funeral and
3 related burial expenses, loss of gifts and benefits and loss of financial support.

4 58. By reason of the aforementioned acts and omissions of Defendants,
5 individually and as peace officers, Plaintiffs have suffered loss of love,
6 companionship, affection, comfort, care, society, and future support.

7 59. Accordingly, Defendants, individually and as peace officers, each are
8 liable to Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

9 60. Plaintiffs seek pain and suffering damages under this claim.

10 61. Plaintiffs also seek attorney fees under this claim.
11

12 **WHEREFORE**, Plaintiffs requests relief as hereinafter provided.
13

14 **PRAYER FOR RELIEF**
15

16 1. For compensatory damages, including both survival damages and
17 damages for Plaintiffs in their individual capacities under federal, in an amount to
18 be proven at trial;

19 2. For funeral expenses and loss of financial support;

20 3. For punitive damages against the individual defendants in an amount
21 to be proven at trial;

22 4. For prejudgment interest;

23 5. For an award of general and special damages in the amount to be
24 proven at trial;

25 6. For reasonable costs of this suit incurred herein;

26 7. For reasonable attorney's fees and costs as provided by law;
27
28

Respectfully submitted,

DOUGLAS / HICKS LAW, APC

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.

Dated: September 12, 2022

DOUGLAS / HICKS LAW, APC

By: /s/ Jamon R. Hicks
CARL E. DOUGLAS, ESQ.
JAMON R. HICKS, ESQ.
Attorneys for Plaintiffs,
D.B. and D.C.B., by and through their
Guardian ad Litem, TERRI THOMAS,
individually and as Successors in Interest to
the ESTATE of DARREN BURLEY